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LOK SABHA

The following Report of the Select Committee on the Bill to further amend the Central Sales Tax Act, 1956, was presented to Lok Sabha on the 11th August, 1958:—

Composition of the Select Committee

1. Sardar Hukam Singh—*Chairman*
2. Shri H. C. Heda
3. Shri K. Ashanna
4. Shri Prafula Chandra Borooah
5. Shri Bibhuti Mishra
6. Shri Mahendra Nath Singh
7. Shri Bhawanji A. Khimji
8. Shrimati Anasuyabai Kale
9. Shri B. L. Chandak
10. Shri Manakbhai Agrawal
11. Shri K. R. Sambandam
12. Shri L. Elayaperumal
13. Shri K. G. Wodeyar
14. Shri S. M. Siddiah
15. Shri Rameshwar Tantia
16. Sardar Ajit Singh Bhatinda
17. Shri Ram Saran
18. Shri Rup Narain

19. Shri Baij Nath Kureel
20. Shri Birbal Singh
21. Shri Muhammed Khuda Bukhsh
22. Shri Radha Raman
23. Shri Thakar Das Malhotra
24. Shri Radha Mohan Singh
25. Shri C. R. Basappa
26. Shri V. P. Nayar
27. Shri K. K. Warior
28. Dr. K. B. Menon
29. Shri D. A. Katti
30. *Shri Aurobindo Ghosal
31. Shri Uttamrao L. Patil
32. Shri Shambhu Charan Godsora
33. Shri Ram Sewak Yadav
34. Shrimati Tarkeshwari Sinha
35. Shri Morarji Desai

DRAFTSMAN

Shri G. R. Rajagopaul, *Additional Secretary and Chief Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

*Resigned with effect from the 7th May, 1958.

REPORT OF THE SELECT COMMITTEE

I, the Chairman of the Select Committee to which the Bill* further to amend the Central Sales Tax Act, 1956 was referred, having been authorised to submit the Report on their behalf, present this their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 26th April, 1958. The motion for reference of the Bill to a Select Committee was moved by Shrimati Tarkeshwari Sinha on the 30th April, 1958 and was discussed and adopted on the same day.

3. The Committee held 4 sittings in all.

4. The first sitting of the Committee was held on the 7th May, 1958 to draw up a programme of work.

5. 41 memoranda/representations on the Bill were received by the Committee from different associations/individuals.

6. The Committee considered the Bill clause by clause at their sittings held on the 2nd and 4th August, 1958.

7. The Committee considered and adopted the Report on the 6th August, 1958.

8. The observations of the Committee with regard to the changes proposed in the Bill are detailed in the succeeding paragraphs.

9. *Clause 2.*—The definition of “place of business” in this clause has been re-drafted to include also the place of business of an agent where a dealer carries on business through an agent.

10. *Clause 5.*—The amendments made in this clause are a sequel to the judgment of the Supreme Court in *the State of Madras vs. Gannon Dunkerly and Company (Madras) Ltd.* (C.A. No. 210 of 1956). In this judgment it has been held that in a building contract which is normally indivisible, there is no sale of goods and it is not within the competence of the State Legislature under Entry 54 of List II of the Seventh Schedule to the Constitution to impose a tax on the supply of materials used in such a contract treating it as a

*Published in Part II, Section 2 of the Gazette of India Extraordinary dated the 26th April, 1958.

sale. In the opinion of the Committee, the Central legislation should also fall into line with the position obtaining in the States in the matter. Therefore, the reference to goods "for use in the execution of any contract" and the Explanation defining a 'contract' have been omitted from this clause.

11. *Clause 9.*—The Committee consider that the power of the Central Government to make rules in respect of fees payable need not be confined to applications for registration but should extend to every type of application under the Act.

The clause has been amended accordingly.

12. The amendments to clause 5 of the Bill have been made after obtaining the recommendation of the President under clauses (1) and (3) of article 117 and article 274 of the Constitution.

13. The Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 9th August, 1958.

HUKAM SINGH,
Chairman,
Select Committee.

NOTE

The sales tax has proved to be a good source of revenue. So, in spite of the general apathy of the public (consumer) to pay it and resentment of small dealers to its complicated and tiresome computation, the sales tax is going to stay. But can it not be possible to simplify the procedure and make it easier both for the dealers and consumers?

2. Broadly, the Indian traders can be classified into two sections, e.g., big and petty dealers. Big dealers are those who employ people to attend to the day-to-day affairs of the business. Most of the petty traders are only one-man show. He not only sells the goods at the shop, but runs about in the market to buy the commodities from the wholesalers, maintain credit accounts and even goes to customers' houses to realise the arrears. After attending to all these essential work, he has little or no time left to prepare the elaborate and complicated sales tax account, and even if this is somehow managed, he has absolutely no time to waste at the Sales Tax Office where the Officer concerned generally keeps him waiting for hours and then asks him to come another day. The very procedure of compiling the sales tax account and the attitude of the Sales Tax Officers is harassing. So, there must be a simple and easier method that will save the petty dealer's precious time in compiling the accounts and also protect him from unnecessary harassment at the hands of the Sales Tax Officers.

3. The Government of India must be aware that at present different rates of sales tax are charged on the same commodity in different States. This is bad, as it encourages unscrupulous deals which are harmful to the nation as well as the States. Before the promulgation of the Additional Duties of Excise (Goods of Special Importance) Act (Act 58 of 1957) there was no sales tax on sugar in Delhi, whereas the U.P. and the Punjab Govts. charged 3 1/8 per cent. In order to evade payment of this 3 1/8% sales tax, the dealers of the U.P. and the Punjab used to import sugar into Delhi and carry it to destinations by motor trucks. So, not only the U.P. and the Punjab Governments lost a good bit of revenue, but there was unnecessary movement of goods that put additional strain on the already over-worked transport system. These irregularities can be prevented if the Central Sales Tax Act is made more comprehensive embracing all the items on which sales tax is charged and put a uniform rate in all the States.

4. The present Bill differentiates between the registered and unregistered dealers who number many times more than the former. As mentioned earlier, the petty traders cannot afford to employ a person to look after the official formalities. So, they prefer not to get registered. But if the Act is too harsh on them, they may quit the business and the big dealers will not be able to take their place. As a result, the consumers in small towns and villages will ultimately suffer. Either they will not get the goods of their daily need, or they will have to pay through their nose for such goods. The Government should not do anything that will kill the petty traders. Therefore, it is suggested that in Clause 5 where the 7% sales tax is chargeable from the unregistered dealers be reduced to 5%.

5. The Bill introduces a new clause (dd) under Sec. 2 defining 'the place of business'. The definition is very wide and it will lead to complications in future. A dealer may have one office where books of accounts are maintained, but he may have a number of warehouses or godowns in different States where he stores his goods. According to the new definition, all these godowns in different States as also the office will be considered as 'places of business' and the respective State Governments where the goods are stored and where the books of accounts are kept, will charge sales tax. So, there will be double taxation. It is, therefore, suggested that the sub-clause (dd) be deleted.

NEW DELHI;
The 6th August, 1958.

B. L. CHANDAK.

MINUTES OF DISSENT

I

We append this minute of dissent, as our efforts to make the Committee agree to our suggestions did not succeed.

Taxation laws, including the Sales Tax Act, cause avoidable harassment to the smaller sections on the one hand, while big business successfully indulge in avoidance as well as evasion. From what we see, it is obvious that, in effect, the policy pursued by Government is one of pronounced softness towards the higher taxable sections. It is by our earnest desire to check the widespread evasion, in sales tax, that we gave some suggestions to the Committee. We regret that the Committee did not accept our suggestions.

We do not agree to the specific exclusion of newspapers from the purview of sales tax, as sought to be provided for by clause 2(iii) of the Bill. We feel that the newspapers, especially the chain newspapers, have no claim for such exemption from sales tax. Consequent on the introduction of the decimal system of coinage, many newspapers enhanced their price per copy on the plea of rounding off the value in *Naye Paise*. On conversion to *Naye Paise* daily papers, which used to be sold at $2\frac{1}{2}$ annas, were priced at 16 N.P. On every million copies, the newspaper owners would get an additional revenue of over Rs. 5,000/- per day, at an average enhancement of $\frac{1}{2}$ N.P. in the sale price per copy. We therefore urge deletion of clause 2(iii) as it is clear that if we choose to tax the sale of newspapers under a Central Act, it would be difficult for any one to evade such tax. It would seem that there are constitutional difficulties in levying sales tax on newspapers. Item No. 92 in List I of the VII Schedule of the Constitution clearly gives Parliament powers to tax the sale of newspapers. This entry reads:

“Taxes on the sale or purchase of newspapers and on advertisements published therein”.

It has, however, been pointed out that the enactment was made under item 92-A of the above list. We do not agree that in the Bill there has to be an express provision to exclude the newspapers from the purview of sales tax. Article 269 has been said to justify

the exclusion of newspapers. This argument cannot hold water as a perusal of this article will clearly show. We consider that advertisements in and sale of newspapers must be taxed especially in the case of newspapers with a circulation of over 10,000 copies.

Another point relates to the question of tax on vegetable oils. India being the largest producer of vegetable oils in the world, oils constitute a very important item in which all evasion should be prevented. A section of the oil trade represented that in Delhi alone evasion of sales tax was to the extent of Rs. 6,000/- every day. This loss to the revenue indicated by the section of the oil trade has not been contradicted. According to the oil trade, if sales tax was added up with excise duty, such evasion could be prevented. We also feel that there is some force in this argument. This suggestion has not been considered on the ground that Government has not gained sufficient experience as yet from the excise duty collected from cloth, sugar, tobacco, etc.

Inter-branch transactions which are being increasingly resorted to especially by big business with a view to evade tax be strictly controlled by suitable amendments. Under colour of inter-branch transactions, sales are effected in such manner as to keep these transactions away from the assessment of tax. The *modus operandi* of such evasion by certain firms which had recently opened branches in small towns without any justification except that of evasion is well known. Such firms purport to transfer goods to their branches while in effect they are really sold. Government do not seem to take serious notice of this. We suggest, therefore, that provisions be made to prevent such malpractices.

Subject to the above, we agree to the report of the Committee. We also hope that the delay in giving effect to the original Sales Tax Act will be avoided and that the amending Bill will be given effect to soon after it is passed by Parliament. We would also like to express that the Bill which has certain improvements to the original Act is welcome and that Government will endeavour its utmost to prevent evasion of tax to the maximum possible extent.

NEW DELHI;
The 6th August, 1958.

K. K. WARIOR.
V. P. NAYAR.

II

We are in general agreement with the provisions of this Bill, but we shall be failing in our duty if we did not express our dissatisfaction regarding section 5(2) (b) which still leaves room for improvement. In our opinion, the proposal to charge "seven per cent or at the rate applicable to the sale or purchase of such goods inside the appropriate State, whichever is higher" from unregistered dealers and on undeclared goods will be harsh. In several States where the present rate is only 3½ per cent or near about it, this proposal is bound to create difficulty and dislocation of existing conditions. This new proposal neither achieves uniformity which was in view in taxable rate throughout the country, nor will save the numerous petty, illiterate and unregistered dealers from inconvenience and harassment. In our opinion, this should not be fixed beyond 5 per cent.

2. We also feel that such a provision with proposed rate of 7 per cent. in inter-State transactions will also hit hard the small scale industries as it ultimately will fall on the consumer who on account of increased cost will be discouraged.

NEW DELHI;

The 7th August, 1958.

RAM SARAN.

RADHA RAMAN.

Bill No. 55-A of 1958**THE CENTRAL SALES TAX (SECOND AMENDMENT)
BILL, 1958**

(AS AMENDED BY THE SELECT COMMITTEE)

*(Words underlined indicate the amendments suggested by the
Committee; asterisks indicate omissions)*

A

BILL

further to amend the Central Sales Tax Act, 1956.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

Short title
and com-
mence-
ment.

1. (1) This Act may be called the Central Sales Tax (Second Amendment) Act, 1958.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 2.

2. In section 2 of the Central Sales Tax Act, 1956 (hereinafter referred to as the principal Act),—

74 of 1956.

(i) in clause (a), the words "one or more" in sub-clause (ii), and the *Explanation* shall be omitted;

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(ii) in clause (b), for the words "selling goods", the words "buying or selling goods" shall be substituted;

(iii) in clause (d), after the words "does not include", the word "newspapers," shall be inserted;

(iv) after clause (d), the following clause shall be inserted, namely:—

‘(dd) “place of business” includes—

(i) in any case where a dealer carries on business through an agent (by whatever name called), the place of business of such agent;

(ii) a warehouse, godown or other place where a dealer stores his goods; and

(iii) a place where a dealer keeps his books of account;’

3. Section 6 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

Amendment of section 6.

“(2) Notwithstanding anything contained in sub-section (1), where a sale in the course of inter-State trade or commerce of goods of the description referred to in sub-section (3) of section 8—

(a) has occasioned the movement of such goods from one State to another; or

(b) has been effected by a transfer of documents of title to such goods during their movement from one State to another;

any subsequent sale to a registered dealer during such movement effected by a transfer of documents of title to such goods shall not be subject to tax under this Act:

Provided that no such subsequent sale shall be exempt from tax under this sub-section unless the dealer effecting the sale furnishes to the prescribed authority in the prescribed manner a certificate duly filled and signed by the registered dealer from whom the goods were purchased, containing the prescribed particulars.”

4. In section 7 of the principal Act,—

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 7.

“(2) Any dealer liable to pay tax under the sales tax law of the appropriate State, or where there is no such law in force in the appropriate State or any part thereof, any dealer having a place of business in that State or part, as the case may be, may, notwithstanding that he is not liable to pay tax under this Act, apply for registration

under this Act to the authority referred to in sub-section (1), and every such application shall contain such particulars as may be prescribed.

Explanation.—For the purposes of this sub-section, a dealer shall be deemed to be liable to pay tax under the sales tax law of the appropriate State notwithstanding that under such law a sale or purchase made by him is exempt from tax or a refund or rebate of tax is admissible in respect thereof.”;

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) A certificate of registration granted under this section may—

(a) either on the application of the dealer to whom it has been granted, or, where no such application has been made, after due notice to the dealer, be amended by the authority granting it if he is satisfied that by reason of the registered dealer having changed the name, place or nature of his business or the class or classes of goods in which he carries on business or for any other reason the certificate of registration granted to him requires to be amended; or

(b) be cancelled by the authority granting it where he is satisfied, after due notice to the dealer to whom it has been granted, that he has ceased to carry on business or has ceased to exist, or in the case of a dealer registered under sub-section (2) has ceased to be liable to pay tax under the sales tax law of the appropriate State or for any other sufficient reason.”.

Amendment of section 8.

5. For sub-sections (1), (2), (3) and (4) of section 8 of the principal Act, the following sub-sections shall be substituted, namely:—

“(1) Every dealer, who in the course of inter-State trade or commerce—

(a) sells to the Government any goods; or

(b) sells to a registered dealer other than the Government goods of the description referred to in sub-section (3);

shall be liable to pay tax under this Act, which shall be one per cent. of his turnover.

(2) The tax payable by any dealer on his turnover in so far as the turnover or any part thereof relates to the sale of goods in the course of inter-State trade or commerce not falling within sub-section (1)—

5 (a) in the case of declared goods, shall be calculated at the rate applicable to the sale or purchase of such goods inside the appropriate State; and

10 (b) in the case of goods other than declared goods, shall be calculated at the rate of seven per cent. or at the rate applicable to the sale or purchase of such goods inside the appropriate State, whichever is higher;

and for the purpose of making any such calculation any such dealer shall be deemed to be a dealer liable to pay tax under the sales tax law of the appropriate State, notwithstanding that he,
15 in fact, may not be so liable under that law.

(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), if under the sales tax law of the appropriate State the sale or purchase, as the case may be, of any goods by a dealer is exempt from tax generally or is subject to
20 tax generally at a rate which is lower than one per cent. (whether called a tax or fee or by any other name), the tax payable under this Act on his turnover in so far as the turnover or any part thereof relates to the sale of such goods shall be *nil* or, as the case may be, shall be calculated at the lower rate.

25 *Explanation.*—For the purposes of this sub-section a sale or purchase of goods shall not be deemed to be exempt from tax generally under the sales tax law of the appropriate State if under that law it is exempt only in specified circumstances or under specified conditions or in relation to which the tax is
30 levied at specified stages or otherwise than with reference to the turnover of the goods.

(3) The goods referred to in clause (b) of sub-section (1)—

35 (a) in the case of declared goods are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for re-sale by him;

40 (b) in the case of goods other than declared goods are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for re-sale by him * * * or sub-

ject to any rules made by the Central Government in this behalf, for use by him in the manufacture or processing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power;

(c) are containers or other materials specified in the certificate of registration of the registered dealer purchasing the goods, being containers or materials intended for being used for the packing of goods for sale;

(d) are containers or other materials used for the packing of any goods or classes of goods specified in the certificate of registration referred to in clause (a) or clause (b) or for the packing of any containers or other materials specified in the certificate of registration referred to in clause (c).

* * * * * 15

(4) The provisions of sub-section (1) shall not apply to any sale in the course of inter-State trade or commerce unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner—

(a) a declaration duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in a prescribed form obtained from the prescribed authority; or

(b) if the goods are sold to the Government, not being a registered dealer, a certificate in the prescribed form duly filled and signed by a duly authorised officer of the Government.”.

Substitution of new sections for section 9.

6. For section 9 of the principal Act, the following sections shall be substituted, namely:—

Levy and collection of tax and penalties.

“9. (1) The tax payable by any dealer under this Act on sales of goods effected by him in the course of inter-State trade or commerce [whether such sales fall within clause (a) or clause (b) of section 3] shall be levied and collected by the Government of India in the manner provided in sub-section (3) in the State from which the movement of the goods commenced:

Provided that, in the case of a sale of goods during their movement from one State to another being a sale subsequent to the first sale in respect of the same goods, the tax shall, where such sale does not fall within sub-section (2) of section 6, be

levied and collected in the State from which the registered dealer effecting the subsequent sale obtained the form prescribed for the purposes of clause (a) of sub-section (4) of section 8 in connection with the purchase of such goods.

5 (2) The penalty imposed upon any dealer under section 10A shall be collected by the Government of India in the manner provided in sub-section (3)—

10 (a) in the case of an offence falling under clause (b) or clause (d) of section 10, in the State in which the person purchasing the goods obtained the form prescribed for the purposes of clause (a) of sub-section (4) of section 8 in connection with the purchase of such goods;

15 (b) in the case of an offence falling under clause (c) of section 10, in the State in which the person purchasing the goods should have registered himself if the offence had not been committed.

20 (3) The authorities for the time being empowered to assess, collect and enforce payment of any tax under the general sales tax law of the appropriate State shall, on behalf of the Government of India and subject to any rules made under this Act, assess, collect and enforce payment of any tax, including any penalty, payable by a dealer under this Act in the same manner as the tax on the sale or purchase of goods under the general sales tax law of the State is assessed, paid and collected; and
25 for this purpose they may exercise all or any of the powers they have under the general sales tax law of the State; and the provisions of such law, including provisions relating to returns, appeals, reviews, revisions, references, penalties and compounding of offences, shall apply accordingly:

30 Provided that if in any State or part thereof there is no general sales tax law in force, the Central Government may, by rules made in this behalf, make necessary provision for all or any of the matters specified in this sub-section, and such rules may provide that a breach of any rule shall be punishable with
35 fine which may extend to five hundred rupees; and where the offence is a continuing offence, with a daily fine which may extend to fifty rupees for every day during which the offence continues.

40 (4) The proceeds in any financial year of any tax, including any penalty, levied and collected under this Act in any State (other than a Union territory) on behalf of the Government of

India shall be assigned to that State and shall be retained by it; and the proceeds attributable to Union territories shall form part of the Consolidated Fund of India.

Collection of tax to be only by registered dealers.

9A. No person who is not a registered dealer shall collect in respect of any sale by him of goods in the course of inter-State trade or commerce any amount by way of tax under this Act, and no registered dealer shall make any such collection except in accordance with this Act and the rules made thereunder.”

Amendment of section 10.

7. In section 10 of the principal Act, after clause (e), the following clause shall be inserted, namely:—

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“(f) collects any amount by way of tax in contravention of the provisions contained in section 9A;”.

Insertion of new section 10A.

8. After section 10 of the principal Act, the following section shall be inserted, namely:—

Imposition of penalty in lieu of prosecution.

“10A. If any person purchasing goods is guilty of an offence under clause (b) or clause (c) or clause (d) of section 10, the authority who granted to him or, as the case may be, is competent to grant to him a certificate of registration under this Act may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one-and-a-half times the tax which would have been levied under this Act in respect of the sale to him of the goods if the offence had not been committed:

Provided that no prosecution for an offence under section 10 shall be instituted in respect of the same facts on which a penalty has been imposed under this section.”.

Amendment of section 13.

9. In section 13 of the principal Act,—

(i) for clause (d) of sub-section (1), the following clauses shall be substituted, namely:—

“(d) the form in which and the particulars to be contained in any declaration or certificate to be given under this Act;

(e) the enumeration of goods or class of goods used in the manufacture or processing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power;

(f) the matters in respect of which provision may be made under the proviso to sub-section (3) of section 9;

(g) the fees payable in respect of applications * * * * under this Act.”;

(ii) in sub-section (4),—

5 (a) in clause (e), for the words “the authority from which”, the words “the authority from whom, the conditions subject to which and the fees subject to payment of which” shall be substituted;

10 (b) in clause (g), for the words “the authorities to which” and “the nature”, the words “the authorities to whom” and “the name, place or nature” shall respectively be substituted.

10. In section 14 of the principal Act,—

Amend-
ment of
section 14.

(i) for item (iia), the following items shall be substituted, namely:—

1 of 1944. 15 “(iia) cotton fabrics, as defined in Item No. 12 of the First Schedule to the Central Excises and Salt Act, 1944;

(iib) cotton yarn, but not including cotton yarn waste;”;

(ii) after item (vi), the following items shall be inserted, namely:—

1 of 1944. 20 “(vii) rayon or artificial silk fabrics, as defined in Item No. 12A of the First Schedule to the Central Excises and Salt Act, 1944;

1 of 1944. “(viii) sugar, as defined in Item No. 8 of the First Schedule to the Central Excises and Salt Act, 1944;

1 of 1944. 25 (ix) tobacco, as defined in Item No. 9 of the First Schedule to the Central Excises and Salt Act, 1944;

1 of 1944. (x) woollen fabrics, as defined in Item No. 12B of the First Schedule to the Central Excises and Salt Act, 1944.”.

30 11. For section 15 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 15.

“15. Every sales tax law of a State shall, in so far as it imposes or authorises the imposition of a tax on the sale or purchase of declared goods, be subject to the following restrictions and conditions, namely:—

Restrictions and conditions in regard to tax on sale or purchase of declared goods within a State.

35 (a) the tax payable under that law in respect of any sale or purchase of such goods inside the State shall not

exceed two per cent. of the sale or purchase price thereof, and such tax shall not be levied at more than one stage;

(b) where a tax has been levied under that law in respect of the sale or purchase inside the State of any declared goods and such goods are sold in the course of inter-State trade or commerce, the tax so levied shall be refunded to such person in such manner and subject to such conditions as may be provided in any law in force in that State.” 5

Repeal of
section 7,
Act 58 of
1957.

12. Section 7 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, is hereby repealed.

10

M. N. KAUL,
Secretary.